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| 10/644,956      | 08/21/2003  | Stefan Fuchs         | 076326-0262         | 7600             |

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| EXAMINER |
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ILAN, RUTH

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| ART UNIT | PAPER NUMBER |
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3616

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/644,956

Applicant(s)

FUCHS ET AL.

Examiner

Ruth Ilan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9 and 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7-9 and 11-21 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first and second guide member having at least one stop, as claimed in the alternate in claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. Claim 8 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 8 recites "wherein the first and/or the second guide member has at least one stop. As disclosed, and shown in the drawings, only the first guide member, that is the long hole 20 has stops, which are the two end edges. The pin does not have stops. As such, the "and" part of the and/or phrase does not have support in the specification or drawings.

***Claim Rejections - 35 USC § 112***

3. Claim 11, 16, 17, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites that the deformation element is arranged so that tubular gas generator is braced by a stop and the fastening element. It is unclear what is intended by this limitation, and there is not one to one correspondence between the claimed elements and the disclosed invention. The gas generator is not braced by a stop and the fastening element, because the stop is part of the fastening element. The Examiner directs the Applicant's attention to paragraph [0017] of the specification, which indicates that the deformation element 3 braces the tubular gas generator 1 with respect to the fastening element 2. The tubular gas

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generator is blocked by the stop in one displacement direction and by the deformation element in the other displacement direction (see top of page 6.)

***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 3, 4, 7, 8, 9, and 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanda (US 5,730,459.) Kanda teaches an air bag unit for a motor vehicle including a tubular gas generator (8) having a tube axis (through the center) that points in the direction of the vehicle interior (out of the steering column) and a deformation element (10<sub>5</sub>- see Figure 5 and col. 2, lines 32-35) and a fastening element (3<sub>1</sub>) for tying the gas generator to the motor vehicle. The deformation element is arranged between the fastening element and the gas generator. There are guide members (14 and 10<sub>4</sub>) guiding the generator along a defined displacement path. The guide member 14 is a pin located on the fastening element, and the guide member 10<sub>4</sub> is located on the tubular gas generator (via lid 10 and rivet 15, see Figure 4) and is a long hole. The displacement path is in a direction away from the vehicle occupant (since it is in the direction opposite to the front of the steering wheel.) The guide member 10<sub>4</sub> has two stops, which are the arcuate ends of the holes. Regarding claim 9, displacement is prevented when the gas generator is subject to a force which is lower than a predetermined force (that is any force lower than the one required to bend the deformation element 10<sub>5</sub>). Regarding claims 13 and 14, a housing (which can broadly

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reasonably be interpreted to be made up made up of 10 and 13) receives a gas bag (9) and is located on the gas generator, in that it is attached via the rivet 15. Regarding claim 11, as best understood, the deformation element 10<sub>5</sub> is arranged so that the gas generator movement is braced by the element in one direction and by the stop (bottom edge of the elongated hole) in the other direction, absent a force sufficient to bend the deformation element.

### ***Allowable Subject Matter***

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

7. Applicant's arguments filed 9/15/05 have been fully considered but they are not persuasive. Regarding the 112 1<sup>st</sup> issue, there is no evidence of reduction to practice. There is not a drawing that shows that the pin (i.e. the second guide) has a stop and it is not clear how a second stop on the pin would interact with the stop, i.e. end of the guide 20. While there may be antecedent basis for the claim language in the specification, it is not described in sufficient detail to support the claim.

8. Regarding the prior art arguments, on page 7, the Applicant asserts that Kanda does not show a deformation element "arranged between" the fastening element and the tubular gas generator. It is noted that "arranged between" is a sufficiently broad term to encompass embodiments that include a functional relationship. The deformation element of Kanda is between, both in connection and function, the fastening element

and the tubular gas generator. Further on page 7, the Applicant asserts that Kanda does not show that the guide member is "located on" the gas generator. It is the Examiner's position that "located on" is sufficiently broad to include the relationship shown by Kanda. That is, because the guide member is attached to the tubular gas generator and applicant has not distinguished in the claim language that the instant claim requires that the guide member is directly attached to the gas generator.

Regarding claim 13, the housing, which can reasonably be said to be made up of components 10 and 13, is on the gas generator, in much the same way as that disclosed by the Applicant. The generator is partially within the housing, and protrudes from the housing.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673.

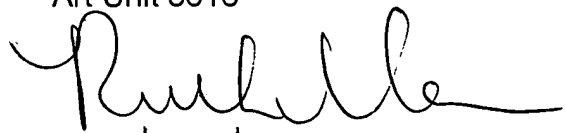
The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RI  
11/22/05

Ruth Ilan  
Primary Examiner  
Art Unit 3616

  
11/22/05